

MARY E. NILAND, ELIZABETH E. O'DONNELL

IBLA 76-784

Decided January 10, 1977

Appeal from decision of the New Mexico State Office, Bureau of Land Management, requiring execution of an affidavit prior to issuance of oil and gas lease, NM-28309.

Affirmed as modified.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents-- Oil and Gas Leases: Applications: Drawings

When a rubber stamp is used to affix a signature to a drawing entry card and no agent's statement has been submitted, a State Office of the Bureau of Land Management may take appropriate action to establish whether the applicant's signature was imprinted by him or at his request by an amanuensis and that he formulated the offer.

APPEARANCES: James W. McDade, Esq., McDade and Lee, Washington, D.C., for appellants.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Mary E. Niland and Elizabeth E. O'Donnell have appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated September 1, 1976, requiring the execution of an affidavit as a condition precedent to the issuance of a noncompetitive oil and gas lease.

Appellants filed a drawing entry card for Parcel 757 in the New Mexico State Office for the June 1976 drawing and their card was drawn number one. However, appellants' signatures were stamped

on the entry card with a facsimile rubber stamp. For that reason the State Office issued a decision requiring appellants to submit affidavits stating that the rubber stamp signatures placed on the offer were intended to be their signatures and that appellants personally placed the facsimile signatures on the card or that the facsimile signatures were placed on the card in their presence with their permission.

The facts of the present case are similar to those in the recent Board decision, Robert C. Leary, 27 IBLA 296 (1976), and the reasoning of Leary is controlling here. In Leary we reaffirmed our holding in Mary I. Arata, 4 IBLA 201, 78 I.D. 397 (1971), that under certain circumstances a rubber stamp signature meets the requirements of 43 CFR 3112.2-1(a) so long as the applicant intended the stamp to be his signature. Therefore, the BLM State Office is free to make inquiry into the circumstances surrounding the preparation and filing of a drawing entry card which has a signature affixed by means of a rubber stamp or mechanical device and to require that a successful offeror submit evidence of his intent to adopt the facsimile rubber stamp as his signature. Accord, Arthur S. Watkins, 28 IBLA 79 (1976); William J. Sparks, 27 IBLA 330 (1976). We stated in Leary, *supra* at 301, that:

* * * where a State Office is not satisfied as to compliance with the regulations, it should require the offeror to state all the circumstances under which the imprint was made and the offer formulated, including without limitation, (a) whether the offeror himself imprinted the facsimile, or (b) whether the imprint was performed in his presence. We emphasize that a negative answer to (a) and (b) does not necessarily invalidate the offer, but an affirmative response to either negates consideration of whether the offeror intended the facsimile to be his signature.

The decision then found that in view of the provisions of 18 U.S.C. § 1001 (1970), a signed statement would be sufficient, rather than an affidavit. The statement to be furnished to BLM should afford it sufficient information to determine whether the person affixing a facsimile, not in the actual presence of the offeror, is acting in a purely mechanical fashion, i.e., as an amanuensis, or is an agent within the ambit of the regulations. See Evelyn Chambers, 27 IBLA 317, 83 I.D. (1976).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed as modified.

Frederick Fishman
Administrative Judge

We concur.

Joseph W. Goss
Administrative Judge

Joan B. Thompson
Administrative Judge

